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COMMISSIONER

May 11, 2006

During a status conference on April 27th in Montgomery, Circuit Judge William Shashy criticized the Alabama Department of Corrections (ADOC) for not performing its duties, as provided by law. The Court has previously ordered that all state inmates be removed from county jails and delivered to the Department of Corrections within 30 days of receipt of documentation making the inmate a state prisoner. According to Judge Shashy, this lawsuit – alleging that the ADOC is not bringing all state inmates in from county jails in a timely manner – has persisted for fourteen years because, “You folks aren’t doing your job!” When a case remains pending in a Circuit Court for **fourteen years** without resolution, it suggests that a lot of folks may not be doing their jobs.

The ADOC has been accused of having the ability to take custody of every State inmate currently incarcerated in the county jails, but simply lacking the will to fulfill its duty - this could not be further from the truth. The State inmates that are in the county jails are almost all medium and maximum security inmates (i.e. deadly force is authorized to prevent escape), and must, therefore, be housed in secure facilities with a sufficient number of correctional officers to ensure public safety. The ADOC has 20,576 medium and maximum security beds in secure facilities – almost 200% of the original design capacity of our institutions. These beds are generally kept 99.5% filled, excluding a few empty beds resulting from inmates being in almost constant motion in and out of our 13 medium or higher facilities. (By contrast, the counties, which are always complaining about being severely overcrowded, reported recently that collectively their jails are less than 6% over capacity, and yet still have over 1,500 empty beds that could hold medium or higher inmates). The only large number of empty beds held by the

ADOC (often noted and discussed by the plaintiffs' representatives and the judge) are minimum security beds in facilities without walls or fences and with only a very few officers on duty at any time. As a matter of public safety, the ADOC will not place a medium or higher security inmate in a minimum security or work release bed. Placing those inmates in low security work release beds, simply because the bed space is available, would be irresponsible and the ADOC will not deliberately take any action that puts the public at risk.

Dedicated employees of this Department are, despite Judge Shashy's suggestion to the contrary, "doing their jobs" to the best of their ability with the limited funding and resources they have been provided, and they continue to develop ways to address the current crisis the ADOC is experiencing. But as much as our critics may not like it, change is not instantaneous - the development and implementation of new ideas takes time. Yet, even then - in a very short period of time - the ADOC has made great strides that our critics refuse to acknowledge. Commissioner Donal Campbell began the process of easing the crowding problem by contracting 800 beds in Louisiana. Governor Riley appointed Commissioner Allen on February 15, 2006, after the resignation of Donal Campbell. Within just two short months, Commissioner Allen, armed with the report of the Governor's Task Force on Prison Crowding, and with the assistance of all of the able and determined employees of the ADOC, has worked diligently to develop and begin implementing an Action Plan that will have an immediate, and long range, impact on the State's inmate population. In addition, the Commissioner has met many times with the Association of County Commissioners, urging the counties to work with us to manage the jail and prison overcrowding problem that burdens all of us as integral components of the State's law enforcement system, but to date they have chosen to stay in court.

At the April 27th hearing, even prior to the Judge's admonition, Commissioner Allen presented Judge Shashy with an extensive list of actions taken since the last status conference on February 28th, to address the problem of prison overcrowding. Commissioner Allen first noted that recently passed sentencing reform legislation coupled with a statewide Community Corrections program offers the best hope of eventually curing prison overcrowding in Alabama. Sentencing reform alone has the potential to initially reduce the overall prison population by some 500 inmates the first year, increasing yearly to about 3,000 inmates in year five. Acknowledging that

the ADOC currently lacks secure bed space for serious offenders, Commissioner Allen then told the Court of four new initiatives designed to take full advantage of minimum security or work release beds. First, instead of awaiting their regularly scheduled annual review date, the Commissioner has ordered an immediate audit of inmate files on a statewide basis to find any inmates that may currently be eligible for work release. Second, in mid-March, the Commissioner formed a committee composed of ADOC personnel and representatives from the Legislative Prison Oversight Committee, the Southern Poverty Law Center, and the Association of County Commissions of Alabama to assess the ADOC's current work release classification criteria. On April 21, 2006, that committee's recommendations were submitted to Commissioner Allen and are currently being reviewed by ADOC classification staff. Third, a work release "re-track" program will be set up to return work release inmates that commit minor infractions back to the program after intensive re-entry training. Fourth, the Commissioner announced a proposal to establish a new therapeutic educational program designed to take medium risk prisoners through an extended, intensive regimen of treatment, instruction, and vocational training, two to three years earlier than is currently the case, to accelerate their early qualification for minimum or work release security level. All of these initiatives will move prisoners from medium security to minimum security and help fill empty work release beds without compromising public safety. Any medium beds opened will of course be immediately filled with prisoners held by the counties.

Commissioner Allen's action plan also calls for the aggressive expansion of community corrections, eventually establishing a statewide community corrections system that would potentially divert 200 to 250 inmates per month to community based programs. ADOC has adequate funding in both this year and next year's budget to develop these programs. In February, there were 25 community corrections programs in 32 counties and, within the next sixty days, there will be 29 programs operating in 38 counties. The ADOC is currently working with UAB and Treatment Alternatives to Street Crime (TASC) in Jefferson County to transfer between 80 to 90 female offenders who are in medium custody beds to the "Another Chance" Program in Jefferson County within one year of the given inmate's end of sentence (EOS) date. This program is expected to begin within a few weeks. Each prisoner diverted to Community Corrections creates space in medium or higher facilities for the dangerous inmates.

The Commissioner then told the Court of three initiatives of the Board of Pardons and Paroles that have the potential to create empty medium and higher beds – the Life Tech Program for Women, which is already operational near Tutwiler Prison, a new Life Tech Program for Men, which just opened in Thomasville, and a new program to divert parole and probation violators from prison to a Technical Violator Center due to begin in October 2006. Aggressive implementation of these programs by the Board of Pardons and Paroles should free up additional medium security beds in the State prison system, which, of course, will be immediately backfilled with inmates from the county jails.

In the very short term, the Commissioner reported, the ADOC is creating approximately 850 new medium security beds by restructuring several of its facilities. The conversion of the Montgomery Work Center, already inside the fence at Kilby Prison, to a pre-release center for the housing of 280 medium security inmates within 90 days of end of sentence will be completed within 45 days. By closing Bullock County Work Release and using its staff to help open a mental health unit inside Bullock Correctional Facility, an additional 250 medium security beds will be on line within the next 45 to 60 days. Construction under way at Limestone Correctional Facility will create an additional 300 medium security beds by placing beds at an existing warehouse inside the main fence. In the mean time, the ADOC will continue to contract for bed space for more than 1,100 male inmates, including 600 new beds to be opened as early as June 2006, and up to 320 female inmates in private facilities.

Other initiatives, efficiencies, and improvements were also presented to the court; still others are under development. All of these actions were developed without the assistance of the counties or the court, and all will be aggressively pursued with or without the assistance of the counties or the court.

In spite of all this, Judge Shashy and the plaintiff class still claim that the ADOC is not doing its job and continue to criticize the ADOC for having empty work release beds. As stated above, often work release centers are not secure and are not even fenced. The inmates housed there are low risk, work in the “free” community in civilian clothes, and are highly regarded by their

employers. Such facilities are not a place for medium or maximum security inmates. The suggested solution of merely putting fences around these insecure facilities is just as impractical as it is simplistic. Medium or higher security prisoners are not only a danger to the public but are also a danger to our Correctional Officers, the professionals providing healthcare inside the prisons, the prison staff, and to each other. They must be kept in facilities that are sufficiently hardened, secure, and staffed so that they may be controlled at all times. These prisoners are considered so dangerous that deadly force may be used to prevent an escape. It is just not practical or cost effective to convert work release or other minimum security camps to medium or higher prisons.

To the extent that Judge Shashy accuses the career employees of the ADOC of dereliction of their duties to the harm of our State, our citizens should know that our employees are some of the best trained, dedicated, and hard working corrections employees in the country. Without the daily sacrifices of these brave men and women, Alabama's long neglected prison system would have fallen apart long ago. Our corrections officers, specifically, deserve much credit and respect for the work they do, risking their safety on a daily basis while working in the State's crowded prisons. While other states have inmate to officer ratios of 5 to 1 or even 3.5 to 1, our State has a ratio of 10 to 1, often resulting in a single corrections officer being assigned to work alone in a dorm housing more than 200 dangerous inmates. If the Judge really understood the State's corrections system and really knew its people, he would be singing their praises, rather than belittling their near heroic efforts.

Vernon Barnett

Vernon Barnett, Chief Deputy Commissioner